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20 JAVIER ESPINOZA

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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA- FRESNO DIVISION**

JAVIER ESPINOZA, an individual,  
Plaintiff,  
vs.  
WASTEQUIP MANUFACTURING  
COMPANY, LLC, an Ohio limited  
liability company; and DOES 1 to 50,  
inclusive,  
Defendants.

Case No. 1:20-CV-00211 JLT

**NOTICE OF SETTLEMENT AND  
JOINT STIPULATION AND  
REQUEST FOR DISMISSAL WITH  
PREJUDICE OF ALL CLAIMS;  
[PROPOSED] ORDER**

(Doc. 14)

## **NOTICE OF SETTLEMENT**

PLEASE TAKE NOTICE that Plaintiff JAVIER ESPINOZA (“Plaintiff”) and Defendant WASTEQUIP MANUFACTURING COMPANY, LLC (“Defendant”) (collectively, “the Parties”) have reached a settlement in the above-entitled action. A formal settlement agreement and general release has been negotiated and executed by, and among, the Parties. Upon the Parties settlement of this entire action, the Parties hereby submit this Joint Stipulation for Approval of Settlement and Motion for Dismissal with Prejudice.

## **JOINT STIPULATION FOR APPROVAL OF SETTLEMENT AGREEMENT**

## **AND MOTION FOR DISMISSAL WITH PREJUDICE**

Plaintiff and Defendant pursuant to Local Rule 160 and Federal Rule of Civil Procedure 41(a)(1)(A)(ii), hereby and through their respective counsel, request that the court approve the Settlement Agreement and Release (the “Agreement”) and dismiss with prejudice the entire action.

#### **A. Court Approval of the Proposed Settlement of Fair Labor Standards**

## **Act Claim is Proper**

Plaintiff's Complaint, in its Fifth Cause of Action, asserts a claim under the Fair Labor Standards Act for alleged Failure to Pay Overtime Wages as required by 29 U.S.C. §§ 207(a) and 216(b). Public policy strongly favors the settlement of disputes. Still, Rule 41(a)(A)(ii) requires the approval of the district court or of the Department of Labor for stipulated dismissals settling Fair Labor Standards Act ("FLSA") claims with prejudice. *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 206 (2nd Cir. 2015). As such, the Parties seek this Court's approval.

#### **B. Court Approval of the Settlement Agreement and Release Is Proper**

The Court need only determine that a “settlement reflects a reasonable compromise over issues that are actually in dispute,” in order to approve a settlement of FLSA claims. *McKeen-Chaplin v. Franklin Am. Mortg. Co.*, No. C. 10-5243 SBA, 2012 WL 6629608, \*2 (N.D. Cal. Dec. 19, 2012). This standard is specifically

1 designed to “promote the policy of encouraging settlement of litigation.” *Id.* A  
2 settlement may be approved if, under the totality of the circumstances, the settlement’s  
3 overall effect vindicates, rather than frustrates, the purposes of the FLSA. See, *Dees*  
4 v. *Hydradry, Inc.*, 706 F.Supp.2d 1227, 1247 (M.D. Fla. 2010) (explaining that “the  
5 district court should not become complicit in any scheme or mechanism designed to  
6 confine or frustrate...realization of FLSA rights.”).

7 As discussed in detail herein, Plaintiff’s FLSA claim is individual in nature, not  
8 class or collective, and was disputed by Defendant from the outset. As such, the terms  
9 of the Agreement reached by the Parties after conducting independent investigations  
10 and discovery into the merits of, or lack thereof, Plaintiff’s claims, is indeed a  
11 reasonable compromise of all the issues “actually in dispute.” *McKeen-Chaplin, supra.*

12 **C. Procedural History**

13 1. On September 19, 2019, Plaintiff filed his Complaint against Defendant,  
14 titled *Javier Espinoza v. Manufacturing Company, LLC* Case No. BCV-19-102665 in  
15 the Kern County Superior Court, seeking damages for (1) Failure to Provide Meal  
16 Periods; (2) Failure to Provide Rest Periods; (3) Failure to Pay Minimum Wages; (4)  
17 Failure to Pay Overtime Wages 29 USC §§ 3017(a) & 216(b); (5) Failure to Provide  
18 Accurate Wage Statements; (6) Waiting Time Penalties; (7) Failure to Produce Payroll  
19 Records; (8) Failure to Produce Personnel Records; and (9) Unfair Business Practice.

20 2. On November 17, 2019 Defendant answered the Complaint in the Kern  
21 County Superior Court and therein denied all claims and allegations and asserted  
22 special and affirmative defenses to all claims and allegations.

23 3. On February 10, 2020, Defendant moved to remove this matter to federal  
24 court on the basis of diversity jurisdiction and Plaintiff did not object. On February  
25 11, 2020, the Kern County Superior Court vacated the state case.

26 4. As of February 11, 2020, the matter is under the jurisdiction of the United  
27 States District Court Eastern District Court of California, before Magistrate Judge  
28 Jennifer L. Thurston.

1       5. Throughout the pendency of this case, both while pending in State court  
2 and after removal to this Court, the Parties have engaged in discovery and in their  
3 respective independent investigations. Specifically, Plaintiff propounded three  
4 separate sets of discovery and Defendant propounded two set of discovery, with both  
5 Parties exchanging documents and meeting and conferring over the Parties' responses.

6       6. Counsel for the Parties have also discussed the merits of Plaintiff's claims  
7 and Defendant's defenses at length.

8       7. On August 28, 2020, after two months of settlement discussions, the  
9 Parties reached an agreement to settle this matter.

10      **D. The Parties Request To Dismiss The Entire Action With Prejudice**

11      Plaintiff initially brought this Complaint against Defendant, alleging wage and  
12 hour causes of action, including an action under the FLSA. With regards to the FLSA  
13 claim, Plaintiff alleged that, while Defendant employed him as a forklift driver,  
14 Defendant failed to pay him overtime wages. Plaintiff alleged that as a result, he was  
15 entitled to overtime pay with interest, liquidated damages, costs and attorney's fees.

16      The Parties have entered into the Agreement to resolve all claims asserted in  
17 this matter. The Parties and their counsel recognize and acknowledge the expense of  
18 continued lengthy proceedings to prosecute and defend this action, the uncertainty and  
19 risk of any litigation, as well as the difficulties and delays inherent in such litigation.

20      In support of the request for approval of the Agreement, Plaintiff's counsel  
21 submits that he and Plaintiff are satisfied that Plaintiff will be reasonably compensated  
22 under the terms of the Agreement for all causes of action asserted against Defendant.  
23 Additionally, Plaintiff's counsel acknowledge that: (a) Plaintiff fully understand the  
24 Agreement; (b) the Agreement specifically applies to a knowing and voluntary release  
25 of the relevant and specified rights and claims Plaintiff may have against Defendant;  
26 and (c) Plaintiff consulted with his counsel before signing the Agreement and has  
27 entered into it knowingly and voluntarily. A copy of the Agreement is attached as  
28 Exhibit A.

1           **E. Conclusion**

2           The Parties agree that the terms reflected in the Agreement are mutually  
3           satisfactory and represent an adequate, fair, and reasonable resolution of this lawsuit.  
4           The Parties therefore respectfully request the Court approve the Agreement and  
5           dismiss this entire action with prejudice.

6           DATED: September 29, 2020

7           CLARK HILL LLP

8           By:

9             
10          Rafael G. Nendel-Flores  
11          Guillermo Tello  
12          Yesi Lagunas  
13          Attorneys for Defendant  
14          WASTEQUIP MANUFACTURING  
15          COMPANY, LLC

16           DATED: September 23, 2020

17           BEN ROTHMAN

18           By:

19             
20          Ben Rothman  
21          Attorney for Plaintiff  
22          JAVIER ESPINOZA

1                   **[PROPOSED] ORDER**

2       Upon review of the Joint Stipulation for Approval of Settlement Agreement and  
3 Request for Dismissal With Prejudice, and after reviewing the settlement agreement  
4 (Doc. 14-1), the Court finds that the settlement terms represent a fair and equitable  
5 resolution of this matter and that the Plaintiff is receiving a reasonable and satisfactory  
6 recovery of his claims, and payment of attorneys' fees and costs.

7       The Court **ORDERS** that the Parties' Settlement Agreement and Release is  
8 APPROVED. This action, and the claims asserted herein by Plaintiff, is hereby  
9 DISMISSED WITH PREJUDICE.

10      IT IS SO ORDERED.

11      Dated: October 8, 2020

12                   /s/ Jennifer L. Thurston  
13                   UNITED STATES MAGISTRATE JUDGE